

UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF ILLINOIS

TRISHA BELL,

Plaintiff,

v.

CITY OF O'FALLON et al.,

Defendants.

Case No. 3:23-cv-3745-JPG

**MEMORANDUM AND ORDER**

This matter comes before the Court on Defendant, City of O'Fallon's motion to dismiss for lack of prosecution. (Doc. 34). The defendant filed their motion on June 5, 2024. Being duly advised in the premises having fully considered the issues and arguments raised, the Court **GRANTS in part and DENIES in part** the motion and **DISMISSES** this case **without prejudice** for lack of prosecution.

This case was initially filed in state court in Madison County, Illinois. It was removed by the defendants on November 20, 2023. (Doc. 1). The material facts of the case are irrelevant for the purposes of evaluating the present motion.

District courts may dismiss a case for lack of prosecution when there is a clear record of delay or contumacious behavior. *Daniels v. Brennan*, 887 F.2d 783 (7th Cir. 1989).

Here, the plaintiff has missed several deadlines, failed to comply with the Court's instructions, and have not been responsive to opposing counsel; the motion practice surrounding the defendant's motion to dismiss is yet another example of that pattern. Under Local Rules, the plaintiff had thirty days to respond to the defendant's motion to dismiss. The deadline to respond, file a motion for extension, or simply respond to the defendant's requests have long

since passed with no communication from the plaintiff. The clear record of repeated delays support the defendant's claim that this case wants for prosecution.

Accordingly, because there is a clear record of delay and failure to respond to the defendant's motion, the Court hereby **GRANTS in part** and **DENIES in part** the defendant's motion and **DISMISSES** this case **without prejudice** with attorney's fees and costs assessed. The Court **DIRECTS** the Clerk of Court to enter judgment accordingly.

**IT IS SO ORDERED.**  
**DATED: July 18, 2024**

*s/ J. Phil Gilbert*  
**J. PHIL GILBERT**  
**DISTRICT JUDGE**